

Substantive Revisions to Final Draft Zoning Ordinance Since September 2, 2008

Art. 3 – Definitions:

Three definitions added. The first is a reference to the documents and resolutions and other approvals attached to the various Planned Development zones. The second is needed as a tie to the provisions for implementation of site plans and project plans in Article 7. The third is added to match the uses as listed in the Land Use tables.

Planned Development Governing Documents - The collection of documents that establish the density, use, and development standards that guide the build-out of a planned development located in any of the Planned Development zones contained in Article 14 of this chapter. Those documents include one or more of the following:

1. Any resolution of approval by the Mayor and Council and any subsequent amendment thereto including any attachments;
2. Any preliminary development plan approval by the Planning Commission and any subsequent amendment thereto including any attachments;
3. Any annexation agreement or other development agreement;
4. The provisions of this Chapter applicable to the particular planned development prior to [date of adoption], and not inconsistent with, the resolution of approval, the approved Preliminary Development Plan or the annexation agreement or other development agreement.

Implementation Period – The date by which activity pursuant to an approval must commence in order to avoid expiration of the approval

Personal Care Facility – A commercial facility providing services such as barber shops, beauty salons, massage therapy, cosmetology, and similar uses. Items separately regulated in this Chapter are not included in this definition.

Art. 7 – Procedures for Site Plans and Project Plans, Special Exceptions and Other Permits

Clarified that the applicant will be responsible for all meeting notices except variances and historic district zone applications. The City will be responsible for providing notice of the final decisions by either Planning Commission or Mayor and Council.

Art. 8 – Transitional Provisions, Nonconformities, Nonconforming Alteration Approval

Revisions have been made for further clarity, particularly in administering alterations to development standards nonconformities. See the body of the text in Article 8.

Art. 9 – Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities

Section 25.09.03.a

Recommend adding reference in footnote 1 to additional accessory building regulations in subsection 2 below regarding accessory building height vs. setbacks.

Section 25.09.07 (see revised text in new draft ordinance)

The provisions for HBBE's have been revised to allow use of accessory buildings for no-impact HBBE's. The HBBE is limited to 35% of the floor area of the dwelling. For no-impact HBBE's there can be no external evidence of the operation.

The staff recommends that the provision on the limit of 10 visits per week to the site in connection with the no-impact HBBE be reinserted. The concern is that with no control on the types of uses, some activities could conceivably become substantial retail commercial uses. While the trips regulation may be difficult to enforce, it at least gives the City some standard for enforcement should the need arise.

Note that under the current code, cosmetologists are allowed up to 20 visits per week to the site as a permitted home occupation. Beyond that, a special exception is required. Under the proposed HBBE revisions, a new cosmetologist will be limited to 10 visits per week as a No-impact HBBE. Any existing legal cosmetologists are grandfathered and may continue under their original provision.

The staff has also prepared for information a comparison chart (AttachB) of the current home occupation regulations in Montgomery County and the City of Gaithersburg, as they related to the proposed HBBE regulations.

Art. 10 – Single Unit Detached Residential Zones

Section 25.10.05 Revised as follows:

Footnote 1 to the development standards table revised as follows:

¹ In cases where the Director of the Department of PublicWorks approves a pervious paving material, the area of the front yard devoted to vehicle movement and parking is still limited to the percentage limits shown in the table above.

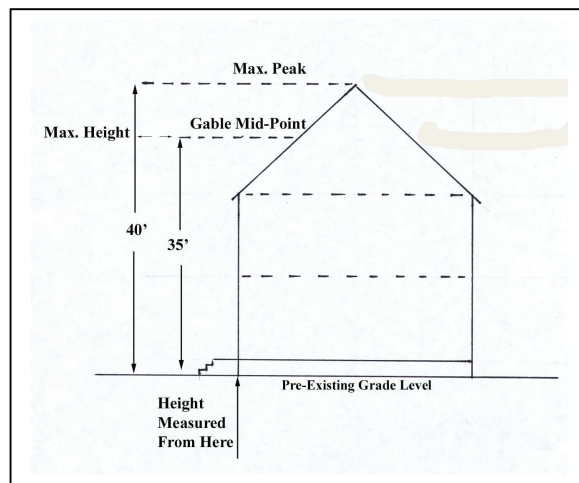
The staff has determined that the above language could be made clearer, and therefore recommends that it be revised to read as follows:

Vehicle movement and parking areas paved with a pervious paving material, as approved by the Director of the Department of Public Works, are not excluded from this calculation.

Sec. 25.10.09 Revised as follows:

25.10.09 – Special Regulations for Building Height in the R-60, R-75, and R-90 Zones.

- a. *Height Limitation* - The height of residential dwellings in the R-60, R-75, and R-90 Zones is limited to 35 feet, measured at the mid-point of the front of the building from the surface of the pre-existing grade to the mid-point of a gable, hip, or mansard roof or to the roof surface of a flat roof. In the case of a gable, hip or mansard roof, the height to the peak of the roof cannot exceed 40 feet.



In cases where the existing grade of the lot slopes below the street grade, building height will be measured from the finished street grade, provided that construction of the dwelling requires regrading of the lot for purposes of positive drainage of wastewater and stormwater to the street.

Article 13 – Mixed Use Zones

Land Use Tables:

MXC Zone retained with restriction on alcoholic beverage sales for off-site consumption adjoining residential zones.

Office use to be permitted in all mixed use zones without floor area limit. As a result, former footnote 3 is deleted.

Provision added allowing existing auto sales in the MXTD zone to continue (new footnote 3)

Development Standards Table:

MXE Zone development standards revised per M&C direction.

Sec. 25.13.07.

First floor height requirement of 15 feet made more flexible in MXTD and MXCD Zones

Article 14 – Special Zones

Sec. 25.14.01.d.6

Language regarding limitations on modifications to buildings or sites during historic designation review process is reinstated with modification to limit review only to those sites already identified in the Historic Building Catalog.

6. Restrictions on Property During Interim Historic Review Period – No exterior change may be made to any property identified in the Historic Building Catalog, as revised, that is the subject of an application for nomination, evaluation, or a demolition permit under this Section until the designation process is complete, unless the property owner first obtains a Certificate of Approval from the Historic District Commission in accordance with the provisions of Section 25.07.13. The restriction of this subsection will not apply for more the 210 days from the date of the filing of the aplciation that initiated the historic designation.

Sec. 25.14.07.d

Clarifications and revisions made to the development standards and amendment process for the PD Zones.

Article 16 – Parking and Loading

Sec. 25.16.01 revised to add new item 5:

25.16.01 – Purpose

The purposes of parking standards are to:

1. Provide adequate parking to support the uses served;
2. Minimize the detrimental impact of off-street parking on adjoining properties;
3. Minimize parking to encourage the use of public transit or other alternatives to the automobile;
4. Ensure the proper and uniform development of parking areas throughout the City;
5. Ensure safe and convenient circulation of pedestrians and bicycles within parking areas;
6. Ensure proper loading configurations and access; and
7. Minimize stormwater runoff from parking lots and structures.

Sec. 25.16.03.h.1 revised to increase walking distance from 1,500 feet to 7/10 mile (3,696 feet). Added provision for proximity to bike path, as follows:

* * *

- (v) Where there is a bikeway in close proximity to the site and the applicant demonstrates that the uses in the proposed development are conducive to bicycle use; or
- (vi) For any other good cause shown.

Sec. 25.16.06.d revised to establish preference for pervious paving:

d. *Paving Specifications*

All off-street parking and loading areas must be so drained as to prevent damage to abutting properties or public streets and must be paved with:

- (a) A pervious paving material as approved by the Director of the Department of Public Works;
- (b) Six inches (6") of concrete; or
- (c) Six inches (6") of bituminous asphalt; or
- (d) Six inches (6") of compacted gravel and two inches (2") of bituminous asphalt; or

- (e) Other paving as approved by the Director of the Department of Public Works.

25.16.06.f revised to further address bike and pedestrian circulation in parking areas:

- f. ***Pedestrian Walkways and Bicycle Paths in Parking Facilities*** – The design of parking facilities must include a pedestrian and bicycle circulation plan providing full and safe access to the through the facility. Pedestrian walkways, sidewalks, crosswalks, and bike paths must be provided in all off-street parking facilities where necessary for pedestrian and cycling safety. Such walkways, sidewalks, and bike paths must be clearly marked and protected from vehicular encroachment by wheel stops or curbs. Pedestrian walkways and bike travel lanes shall be linked with walkways and lanes in adjacent parking facilities and with entrances to buildings and public sidewalks and bike facilities. All pedestrian ways that cross private travel ways must be provided with crosswalks acceptable to the Department of Public Works.

Article 18 – Signs

Section 25.18.11.4.(d) – Temporary Noncommercial Signs

Section modified to allow signs up to 5 square feet in area, and delete the restriction of 4 square feet for yard sale signs.

Request to Modify Election Signs

Correspondence from Martin Hutt (Exhibit 127) requests allowance to increase the size of election signs in nonresidential zones. Request is to allow 1 sign up to 125 square feet in size (approximately 8 x 15.5 feet) to be mounted at the top face of a building, and 48 square feet (approximately 5 x 9.5 feet) if free-standing. The request also is to illuminate these signs.

The staff is generally in support of the concept, but does not support illuminating the signs. Further discussion will be provided at the D&I session.

Modifications to Zoning Map

The Zoning Map has been modified from the September 4 version by applying the MXC Zone to the Woodley Gardens shopping center, Maryvale Center; S. Stonestreet market; and Burgundy Park shopping center.

The MXCD Zone has been applied in place of the MXNC Zone to the Potomac Woods shopping center on Seven Locks Road.